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EXECUTIVE OFFICE OF THE PRESIDENT
WASHINGTON, D.C.
20508**

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**FOR IMMEDIATE RELEASE
MAY 25, 1999**

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**UNITED STATES WINS WTO CASE CHALLENGING
AUSTRALIAN SUBSIDIES FOR AUTOMOTIVE LEATHER**

United States Trade Representative Charlene Barshefsky announced today that a dispute settlement panel of the World Trade Organization has issued a report finding that an A\$30 million grant provided by Australia to its only exporter of automotive leather violates Australia's WTO obligations. The WTO panel affirmed the U.S. argument that the aid constitutes an unlawful export subsidy and urged Australia to withdraw the subsidy within 90 days.

The dispute was triggered by two Australian programs that granted financial benefits to the Australian automotive leather industry that were expressly dependent on increased exports. Following consultations requested by the United States, Australia agreed to halt these WTO-illegal "*de jure*" export subsidies by excluding the automotive leather industry from the programs. Shortly after its agreement, however, Australia announced that it was replacing the benefits of the two export programs with a new package of equally unlawful "*de facto*" export subsidies.

"The WTO panel's finding will help level the playing field in the automotive leather industry by reining in unfairly subsidized competition from Australian exporters," stated Ambassador Barshefsky. "In addition, the panel's finding strengthens WTO rules on subsidies by underscoring that countries cannot circumvent their obligations through clever packaging or draftsmanship. We welcome this decision and urge Australia to come into compliance within the 90 days recommended by the panel."

Background

This dispute first arose when the Coalition Against Australian Leather Subsidies filed a Section 301 petition against two major Australian export subsidy programs. The United States requested consultations with Australia on two export programs under terms of the Agreement on Subsidies and Countervailing Duties (SCM Agreement), arguing that the Australian programs conferred

export subsidies prohibited under the Agreement.

Australia agreed to remove automotive leather from its subsidy programs. Shortly thereafter, however, Australia announced a new subsidy package for Howe Leather, Australia's sole automotive leather exporter: an A\$30 million direct grant and an A\$25 million loan, to be repaid in fifteen years, with the first payment deferred for five years.

The United States told Australia that it considered the new leather funding program to constitute yet another prohibited export subsidy. Following another set of consultations, the United States referred its complaint to a WTO dispute settlement panel. The United States argued before the panel, and the panel agreed, that the grant was a subsidy contingent "in fact" on Howe's export performance.

The WTO panel did not find that preferential loan was contingent on export performance. Although both parties agreed that the loan was a subsidy, the panel reasoned that there was nothing in the terms or design of the loan that could be linked to export performance.

The United States also prevailed on several important issues related to the operation of the WTO dispute settlement system. In particular, the panel set a new precedent by successfully pressing Australia to produce relevant confidential business documents. The panel also found in favor of the United States on the procedural defenses raised by Australia, including the adequacy and timing of the U.S. panel request and the identity of the measures before the panel.